

Amendment No. 2 to SB1434

**Overbey
Signature of Sponsor**

AMEND Senate Bill No. 1434

House Bill No. 1370*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-6-205, is amended by deleting the final sentence of subsection (a) and subsection (b) in its entirety and by substituting instead the following:

(b) In determining whether to issue an arrest warrant pursuant to subsection (a), or a criminal summons pursuant to § 40-6-215, the following shall apply:

(1) If a single or multiple affiants are seeking a warrant of arrest for a felony or misdemeanor offense, and at least one (1) or more of the affiants is a law enforcement officer, as defined by § 39-11-106, the magistrate shall issue an arrest warrant unless the law enforcement officer requests a summons be issued instead.

(2) If a single or multiple affiants are seeking a warrant of arrest for a misdemeanor offense, as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, there is a presumption that the magistrate shall issue a criminal summons. The presumption is overcome if:

(A) The affiant or affiants request a warrant, submit sufficient information demonstrating the need for a warrant, and the magistrate agrees that an arrest warrant should be issued instead of a summons; or

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(B) The magistrate finds an arrest warrant is necessary to prevent immediate danger to a victim of domestic abuse, sexual assault or stalking as defined in § 36-3-601.

(3) If a single or multiple affiants are seeking a warrant of arrest for a felony offense as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, there is a presumption that the magistrate shall not issue either a criminal summons as provided in § 40-6-215, or an arrest warrant. This presumption is overcome if the magistrate finds an arrest warrant is necessary to prevent immediate danger to a victim of domestic abuse, sexual assault or stalking as defined in § 36-3-601.

SECTION 2. Tennessee Code Annotated, Section 40-6-215, is amended by deleting subsection (a) and substituting instead the following:

(a) As an alternative to an arrest warrant as provided in § 40-6-205, the magistrate or clerk may issue a criminal summons instead of an arrest warrant. In determining whether to issue a criminal summons or an arrest warrant as provided in § 40-6-205, this subsection shall apply:

(1) If a single or multiple affiants are seeking a warrant of arrest for a felony or misdemeanor offense, and at least one (1) or more of the affiants is a law enforcement officer, as defined by § 39-11-106, the

magistrate shall issue an arrest warrant unless the law enforcement officer requests a summons be issued instead.

(2) If a single or multiple affiants are seeking a warrant of arrest for a misdemeanor offense, as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, there is a presumption that the magistrate shall issue a criminal summons. The presumption is overcome if:

(A) The affiant or affiants request a warrant, submit sufficient information demonstrating the need for a warrant, and the magistrate agrees that an arrest warrant should be issued instead of a summons; or

(B) The magistrate finds an arrest warrant is necessary to prevent immediate danger to a victim of domestic abuse, sexual assault or stalking as defined in § 36-3-601.

(3) If a single or multiple affiants are seeking a warrant of arrest for a felony offense as defined in § 39-11-110, and none of the affiants is a law enforcement officer, as defined by § 39-11-106, there is a presumption that the magistrate shall not issue either a criminal summons as provided in § 40-6-215, or an arrest warrant. This presumption is overcome if the magistrate finds an arrest warrant is necessary to prevent immediate danger to a victim of domestic abuse, sexual assault or stalking as defined in § 36-3-601.

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it and shall apply to all warrants of arrest and criminal summons issued before or after such date.